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Federal Communications Commission
Office of Secretary

Ms. Marlene H. Dortch, Secretary
Federal Communications Commission
Office of the Secretary
236 Massachusetts Avenue, N.E., Suite 110
Washington, DC 20002

Re: Sprint Nextel Request for Adjustment of the Schedule for 800 MHz
Band Reconfiguration Negotiations (WT Docket No. 02-55)

Dear Ms. Dortch:

The members of the Safety and Frequency Equity Competition Coalition ("SAFE")¹ have commenced negotiations in good faith with Sprint Nextel toward a definitive Frequency Reconfiguration Agreement ("FRA") for a system-wide, simultaneous relocation in accordance with the directives of the 800 MHz Transition Administrator ("TA") and the Commission's orders in the above-referenced proceeding. This negotiation includes the relocation of facilities in Waves 1, 2, and 3 of the TA's schedule adopted by the Commission on March 11, 2005, which grouped the NPSPAC regions into four waves (Waves 1-4).²

Sprint Nextel has engaged in these negotiations even though they are necessarily tentative until the Commission's *Memorandum Opinion and Order* ("MO&O"),³ released on

¹ SAFE members include Coastal SMR Network, LLC; A.R.C., Inc. d/b/a Antenna Rentals Corp; Skitronics, LLC; Waccamaw Wireless, LLC; and CRSC Holdings, Inc.

² The three-month "mandatory" negotiation period for Wave 1, Stage 1 licensees commenced on September 27, 2005. According to the TA's guidelines, "if reconfiguring Wave 1, Stage 1 licensees and Sprint Nextel have not executed a Frequency Reconfiguration Agreement by December 26, 2005, they will enter into mediation as of December 27, 2005, as defined by the TA's Alternative Dispute Resolution Plan." The three-month "voluntary" period for the NPSPAC regions designated for Wave 2 commenced on October 3, 2005, and will end January 2, 2006. The three-month mandatory negotiation period for Wave 2 will end on April 2, 2006. The voluntary period for Wave 3 commences on January 3, 2006, and ends on April 2, 2006. The mandatory period, if any, will end on July 2, 2006.

³ See Improving Public Safety Communications in the 800 MHz Band Consolidating the 800 and 900 MHz Industrial/Land Transportation and Business Pool Channels, Memorandum Opinion and Order, WT Docket 02-55, FCC 05-174 (October 5, 2005) ("MO&O").

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October 5, 2005, becomes a final order. In fact, these negotiations have commenced well before the TA has opened the 20-day window during which licensees, such as SAFE's members, can modify their previous elections.⁴ Every effort is being made to conclude these negotiations as soon as possible.

It is highly unlikely that an FRA can be fully negotiated and executed by SAFE's members and Sprint Nextel before the expiration of the mandatory negotiation period for Wave 1 licensees on December 26, 2005. Accordingly, on November 14, 2005, SAFE filed a Request to Toll the mandatory negotiation periods for non-ESMR EA licensees. To date, the Commission has not acted on that request. However, on December 1, 2005, Sprint Nextel filed "comments" on the TA's Quarterly Report, which requested, among other things, that the previously designated start date of the 800 MHz band reconfiguration (June 27, 2005), be readjusted to commence 60-days after the MO&O is printed in the Federal Register (the "Sprint Nextel Request").

For the following reasons, grant of the Sprint Nextel Request would be in the public interest and SAFE hereby supports its grant. First and foremost, SAFE's members need adequate time to negotiate with Sprint Nextel a system-wide, simultaneous relocation of their facilities to the ESMR band segment. Doing so will permit SAFE's members to expedite their access to the new band, and to avoid, or minimize, adverse impacts from the transition on their existing customers. At minimum, SAFE's members should receive all of the time for negotiations as originally contemplated in the Report and Order and in the negotiation schedule subsequently adopted by the Commission. Due to the timing of the MO&O, SAFE's members effectively have been deprived of any benefit of the voluntary negotiation period for Wave 1 (the period commenced before the Commission issued the MO&O). Most, if not all, of the time afforded for the mandatory negotiation periods in Waves 1 and 2 likely will have expired before the MO&O is a final order. Until the MO&O is a final order, the negotiations cannot be finally resolved, as the MO&O specifically established the system relocation rights of SAFE's members in the new ESMR band segment.

SAFE files this letter of support for the Sprint Nextel Request because it believes that Sprint Nextel intends to continue to negotiate in good faith with SAFE's members in the coming weeks, even if an adjusted schedule does not require Sprint Nextel to do so. If the start date of the 800 MHz reconfiguration process is adjusted forward to 60 days after the publication of the MO&O, the voluntary periods for Wave 1 and Wave 2 licensees such as SAFE's

⁴ Nevertheless, the MO&O, which provided conditional authority for SAFE's members to relocate certain qualified site-specific licenses to the new ESMR band segment, is not yet a final order and is subject to potential appeals and agency reconsideration, and the TA has not yet opened the 20-day window.

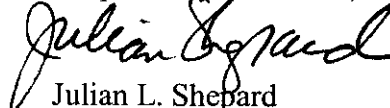


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members (those whose right to relocate site-specific licenses to the ESMR band segment) should be adjusted forward, too. That will ensure adequate time for the conclusion of meaningful negotiations between SAFE's members and Sprint Nextel, as the Commission originally anticipated. Grant of the Sprint Nextel Request would expedite the resolution of the 800 MHz reconfiguration process and avoid needless expense and delay.

Respectfully submitted,


Julian L. Shepard
Counsel to SAFE

cc: Catherine W. Seidel,
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